

THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF PENNSYLVANIA

UNITED STATES OF AMERICA,

Plaintiff,

v.

LOUIS LAMANNA,

Defendant.

Criminal No. 15-0200
ELECTRONICALLY FILED

Order of Court re: Superseding Indictment

On February 16, 2016, this Court dismissed the Two-Count Indictment at 15-cr-0200 because the counts had been previously dismissed by a plea agreement at 12-cr-0155. See Memorandum Opinion and Order at Doc. No. 76. Therein, the Court found that it was an improper use of the Grand Jury process, and a violation of the due process rights of Defendant, for the Government to re-indict a defendant on dismissed felony counts (pursuant to a plea agreement), after the actual dismissal of said counts at the sentencing hearing, without the Government first receiving a ruling from the Court that a material breach of the plea agreement has occurred, and a declaration from the Court setting aside the plea agreement. See Doc. No. 76. At that time, the United States Attorney had two options: (1) to move to set aside the plea agreement because of alleged material breach(es); or, (2) to pursue an appeal before the United States Court of Appeals for the Third Circuit of the ruling of this Court dismissing the Indictment.

Instead, within hours of the filing of said Memorandum Opinion and Order dismissing the Indictment, the United States Attorney filed a Superseding Indictment which included the

two previously dismissed Counts (One and Two)¹ and added three other new Counts.² Such procedure is not an available option since the law of the case is that the United States Attorney did not previously follow the proper procedure as more fully outlined in the Memorandum Opinion and Order dismissing the Indictment.

The Court therefore *sua sponte* dismisses Counts One and Two of the Five-Count Superseding Indictment (doc. no. 77).

SO ORDERED, this 22nd day of February, 2016.

s/Arthur J. Schwab
Arthur J. Schwab
United States District Judge

cc: All ecf-registered counsel of record

¹Count One of the Superseding Indictment alleges Bankruptcy Fraud from February 2010 through September 22, 2010, in violation of 18 U.S.C. § 152(1), and Count Two alleges Money Laundering on September 24, 2010, in violation of 18 U.S.C. § 1956(a)(1)(B)(i). Compare Doc. Nos. 1 and 77.

²Count Three of the Superseding Indictment alleges Conspiracy in July and August 2013, in violation of 18 U.S.C. § 371, Count Four alleges Structuring Financial Transactions July and August 2013, in violation of 31 U.S.C. § 5324(a)(3), and Count Five alleges Attempting to Cause Non-Reporting of Financial Transaction on March 7, 2011 in violation of 31 U.S.C. § 5324(a)(1). Doc. Nos. 77 and 78.